

MASTER AGREEMENT

THIS AGREEMENT ("Agreement") is made and entered into this 19th day of October, 2021 by and between the COUNTY OF FRESNO, a Political Subdivision of the State of California, hereinafter referred to as "COUNTY", and each contractor listed in Exhibit A to this agreement, hereinafter referred to as "CONTRACTOR" and collectively the "CONTRACTORS".

WITNESSETH:

WHEREAS, the COUNTY wishes to contract for snow removal services to nine zones within County Service Area No. 35; and

WHEREAS, the COUNTY, on June 7, 2021, issued Request for Quotation (RFQ) No. 21-056, a copy of which is on file with the Department of Public Works and Planning, Special Districts Administrator, 2220 Tulare Street, Sixth Floor, Fresno, California 93721, for snow removal services; and

WHEREAS, each CONTRACTOR submitted a response to RFQ No. 21-056; and

WHEREAS, the COUNTY has evaluated each CONTRACTOR's Response to RFQ No. 21-056 and has determined that each CONTRACTOR is qualified and capable of performing the work specified in RFQ No. 21-056; and

WHEREAS, each CONTRACTOR listed in Exhibit A, attached hereto and incorporated herein by this reference, is qualified and willing to perform such work specified in RFQ No. 21-056 and the services specified herein in the zone(s) within County Service Area No. 35 which are allocated to each CONTRACTOR (collectively, "Service Area").

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions herein contained, the parties hereto agree as follows:

1. OBLIGATIONS OF THE CONTRACTOR

CONTRACTORS agree that their inclusion on Exhibit A does not constitute a guarantee or promise that any CONTRACTOR shall provide any certain amount of work or services to the COUNTY under this Agreement. By executing a signature page, each CONTRACTOR becomes a signatory to this Agreement, and agrees that it is party to this Agreement with the COUNTY and is bound by its terms.

1 Each CONTRACTOR shall provide snow removal services in the zones displayed in Exhibit B-1,
2 attached hereto and incorporated herein by this reference. Snow removal at all times shall be done in a
3 manner to preserve and protect the roads to the extent necessary to insure safe and efficient
4 transportation. The work shall be performed in a professional, workmanlike manner, and
5 CONTRACTOR shall use those methods and equipment consistent with the best practices of the snow
6 removal trade. Snow removal services are divided into two periods: The "November through April Snow
7 Removal Period" begins at 12:00 AM on November 1 and lasts through 12:00 PM on the following April
8 30. The "Out-of-Season Snow Removal Period" begins at 12:00 PM on April 30 and last through 12:00
9 AM on the following November 1. The CONTRACTOR's responsibilities and duties are detailed below.

10 A. The CONTRACTOR's responsibilities and duties for the November through April
11 Snow Removal Period are as follows.

12 1) Before November 1, the CONTRACTOR shall:

13 a. Provide COUNTY staff with current certificates of insurance for all
14 categories of required coverage.

15 b. Conduct an inspection of the roadways in the Service Area, while
16 accompanied by the COUNTY Representative (as defined below), and one or more Citizens Advisory
17 Council members for the relevant zone of County Service Area No. 35, to accomplish all of the following:

18 (i) Document in writing and in digital photographs the location
19 and extent of any previous damage to roadway pavement, curbs, gutters, driveway approaches,
20 drainage and sewer collection facilities. The documentation shall be transmitted to the COUNTY
21 Representative promptly and will be retained by the COUNTY as a benchmark for evaluating future
22 damage.

23 (ii) Determine where snow poles are needed to be placed.

24 The CONTRACTOR shall give particular attention to areas susceptible to damage during the
25 performance of snow removal services, such as curves in the roadway or cul-de-sacs. The
26 CONTRACTOR can obtain snow poles from the COUNTY's Special Districts staff by written request
27 (which may include by email). Snow poles should be placed close to roadside curbing and close
28 enough to each other to guide the snow removal equipment operator away from causing damage to

1 curbs and other obstacles.

2 c. Contact the Permit Engineer in the Road Maintenance and
3 Operations Division of the COUNTY Department of Public Works and Planning and obtain an
4 encroachment permit for snow removal for all eligible roadways. CONTRACTOR is solely responsible
5 for paying encroachment permit fees. If CONTRACTOR fails to obtain encroachment permits, COUNTY
6 may terminate this agreement.

7 2) During the November through April Snow Removal Period, the
8 CONTRACTOR shall:

9 a. Have all necessary equipment in working and well-maintained
10 condition, have all necessary materials (such as sand) on hand, and have all necessary labor available
11 24 hours a day, seven days a week, to perform snow removal services in the Service Area.

12 b. Perform snow removal operations in the Service Area such that
13 **snow does not accumulate to more than three (3) inches in any one place including during**
14 **storms.** The CONTRACTOR must commit the necessary equipment and manpower to reach the above
15 referenced standard, no matter what other snow removal commitments it has, and no matter the length
16 of roadways or the amount of snow. The COUNTY Representative may allow CONTRACTOR to
17 deviate from the above referenced standard in extreme or abnormal situations.

18 c. The roadways in the Service Area shall be cleared of snow (i) so
19 that **two (2) traffic lanes** are open at all times, or (ii) if a roadway is not wide enough for two traffic
20 lanes, to within two (2) feet of curbs or edge of roadway pavement.

21 d. Make every reasonable effort to avoid piling or pushing snow up on
22 driveway approaches or access ways.

23 e. To limit potholing and rutting of the roads, the Contractor will
24 remove snow that accumulates and packs during a storm as soon as weather conditions permit, even if
25 the accumulation is less than three inches.

26 f. Maintain and keep clear of snow all over-board drains provided on
27 the subject roadways.

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1 g. Remove snow from fire hydrants sufficient to keep them all
2 accessible and maintainable at all times.

3 h. Apply sand to road areas that are slippery or subject to icing, or at
4 the request of the COUNTY Representative.

5 i. Be responsible, and indemnify the COUNTY, for all damages to
6 public and private property resulting from snow removal and ancillary services. If the CONTRACTOR
7 damages COUNTY-owned property or property that the COUNTY is responsible for maintaining, the
8 COUNTY Representative shall determine, and notify the CONTRACTOR in writing, whether the
9 CONTRACTOR is directly responsible to repair the damages or shall pay the COUNTY for the actual
10 cost of repair within 15 days after written notice.

11 j. Without additional compensation, remove snow or ice that
12 accumulated because CONTRACTOR failed to ensure that snow did not accumulate. The COUNTY is
13 not responsible for any damage or injury to equipment or persons resulting from the removal of
14 accumulated snow or ice.

15 k. Respond in writing to the COUNTY Representative about
16 complaints made by residents in the Service Area.

17 l. If there are complaints of insufficient services by the
18 CONTRACTOR, the COUNTY Representative will ask complainants to provide digital photo images with
19 time stamps. If the COUNTY Representative receives a first complaint of insufficient service, the
20 CONTRACTOR shall investigate and provide a written response to the COUNTY regarding the
21 circumstances.

22 m. If the COUNTY Representative receives a second complaint about
23 the same insufficient service, or about similar insufficient service after a later snowstorm and is not
24 satisfied with the written explanation provided by the CONTRACTOR, the COUNTY Representative may
25 request a meeting with the CONTRACTOR to discuss any improvements in operation the
26 CONTRACTOR can provide.

27 n. If the COUNTY Representative receives a third complaint about
28 the same insufficient service, or about similar insufficient service after a later snow storm and is not

1 satisfied with the CONTRACTOR's written response, the COUNTY Representative may assess
2 liquidated damages of up to ten percent (10%) of the monthly's compensation and/or reduce the
3 CONTRACTOR'S service area by contracting for snow removal services with another service provider,
4 for zones where the CONTRACTOR has received complaints about insufficient service. Further
5 complaints about the same insufficient service by a CONTRACTOR, or about similar insufficient service,
6 are cause for the COUNTY to terminate this agreement with that CONTRACTOR for all zones
7 regardless of which zones received insufficient service.

8 o. Replace all snow poles damaged or removed during the season.

9 3) After the November through April Snow Removal Period, the
10 CONTRACTOR shall:

11 a. Provide street sweepings on all roadways in the Service Area that
12 received snow removal services, preferably before the Memorial Day weekend, unless prohibited by
13 unseasonable snows. The purpose of street sweeping is to remove excess sand and debris and
14 whatever has been deposited in roadways due to snow removal.

15 b. Repair all surfaces, curbs, bent snow poles and signs, and other
16 facilities that were damaged by snow removal. The COUNTY Representative may withhold payment
17 under this Agreement until repairs are made.

18 B. For the Out-of-Season Snow Removal Period: If snowstorm episodes occur
19 during the Out-of-Season Snow Removal Period, the COUNTY Representative may give verbal
20 authorization to the CONTRACTOR to remove snow from an area within the Service Area. The
21 COUNTY Representative has the discretion to determine the level of service, type of equipment, and
22 manpower levels that may or may not match the level of service provided in the November through April
23 Snow Removal Period. Unless there are extraordinary conditions that imminently jeopardize the health
24 and safety of residents or will result in damage to vital equipment or property, the CONTRACTOR shall
25 not provide snow removal services until the COUNTY Representative provides verbal authorization. If
26 extraordinary conditions occur, the CONTRACTOR shall inform the COUNTY Representative in writing
27 of the reason for initiating snow removal without verbal authorization.

28 2. OBLIGATIONS OF THE COUNTY

1 A. COUNTY shall compensate each contractor as provided in this Agreement.

2 B. The COUNTY Representative is the COUNTY Director of Public Works and
3 Planning or his or her designee. Each CONTRACTOR shall communicate and coordinate with the
4 COUNTY Representative, who will provide the following services:

5 1) Examine documents submitted to the COUNTY by each CONTRACTOR
6 and timely render decisions pertaining thereto; and

7 2) Provide communication between each CONTRACTOR and COUNTY
8 officials and commissions.

9 C. Each COUNTY Representative shall give consideration to all matters submitted
10 for approval by each CONTRACTOR in a manner that advances the mutual intent of the COUNTY and
11 the relevant CONTRACTOR to avoid any substantial delays in that CONTRACTOR's program of work.

12 3. TERM

13 The term of this Agreement shall be for a period of three (3) years, commencing on November 1,
14 2021 through and including October 31, 2024. This Agreement may be extended for two (2) additional
15 consecutive twelve (12) month periods upon written approval of both parties no later than thirty (30) days
16 prior to the first day of the next twelve (12) month extension period. The Director of the Department of
17 Public Works and Planning, or his or her designee is authorized to execute such written approval on behalf
18 of COUNTY based on CONTRACTOR'S satisfactory performance.

19 4. TERMINATION

20 A. Non-Allocation of Funds - The terms of this Agreement, and the services to
21 be provided hereunder, are contingent on the approval of funds by the appropriating government
22 agency. Should sufficient funds not be allocated, the services provided may be modified, or this
23 Agreement terminated, at any time by giving the CONTRACTOR(S) thirty (30) days advance
24 written notice.

25 B. Breach of Contract - The COUNTY may immediately suspend or terminate this
26 Agreement in whole or in part, where in the determination of the COUNTY there is:

27 1) An illegal or improper use of funds;

28 2) A failure to comply with any term of this Agreement;

- 3) A substantially incorrect or incomplete report submitted to the COUNTY;
- 4) Improperly performed service.

In no event shall any payment by the COUNTY constitute a waiver by the COUNTY of any breach of this Agreement or any default which may then exist on the part of the CONTRACTOR. Neither shall such payment impair or prejudice any remedy available to the COUNTY with respect to the breach or default. The COUNTY shall have the right to demand of the CONTRACTOR the repayment to the COUNTY of any funds disbursed to the CONTRACTOR under this Agreement, which in the judgment of the COUNTY were not expended in accordance with the terms of this Agreement. The CONTRACTOR shall promptly refund any such funds upon demand.

C. Without Cause - Under circumstances other than those set forth above, this Agreement may be terminated by COUNTY upon the giving of thirty (30) days advance written notice of an intention to terminate to CONTRACTOR.

D. In the event that the COUNTY terminates this Agreement as to one or more CONTRACTOR(S), this Agreement shall stay in full force and effect as to the remaining CONTRACTORS. Termination of one or more CONTRACTOR(S) from this Agreement shall not terminate the Agreement as to the remaining CONTRACTOR(S).

5. COMPENSATION/INVOICING:

A. November through April Snow Removal Period:

The CONTRACTOR's compensation for the November through April Snow Removal Period is derived from the "Quotation for an average year" amount provided in the CONTRACTOR's informal bid response, also displayed in Exhibit B-1. The CONTRACTOR is guaranteed a minimum of seventy percent (70%) of that amount, which will be paid in six equal monthly installments starting in mid-November. The CONTRACTOR may receive additional compensation only as provided in this agreement.

For all purposes of this agreement, the amount of precipitation is established by taking the precipitation (rain and snowmelt) amounts at the Granite Ridge Pump Station for the period between November 1 and April 30. For purposes of this agreement, the ten-year average precipitation is defined as the total amount of precipitation over the 10-year period immediately preceding the year in which the average is determined, divided by 10.

1 The electronic measuring equipment at the Granite Ridge Pump Station is linked to the website
2 <https://www.wunderground.com/dashboard/pws/KCASHAVE11#history>. This electronic measuring
3 equipment has a battery backup in the event of power failure, but if this equipment is damaged or fails to
4 function correctly, measurement data taken manually on a daily basis by COUNTY staff at the same
5 location will be substituted during the period of equipment failure. If the electronic measuring equipment
6 fails, and manual measurements are not obtainable, then measurements from measuring equipment
7 located at the Shaver Lake Regional Wastewater Facility will be substituted during that period. If there is an
8 equipment failure, the Special Districts staff have sole discretion to determine when manual measurements,
9 or measurements from the Shaver Lake Regional Facility, will be used. If the COUNTY installs additional
10 weather stations during the duration of this agreement, the COUNTY reserves the right to use
11 measurements from the additional weather station should the equipment at the Granite Ridge Pump Station
12 fail to function correctly. The California Department of Water Resources (DWR) announcement of "Final
13 Snow Survey Results" and data available from stations in the southern Sierra from other agencies will not
14 be used as a backup if there is equipment failure at the Shaver Lake Regional Wastewater Facility or
15 Granite Ridge Pump Station.

16 After April 30, the amount of precipitation for the immediately preceding snow season from
17 November to April will be tabulated by the COUNTY. If the total amount of precipitation for that period is
18 greater than 70 percent of the ten-year average of precipitation, the CONTRACTOR will receive additional
19 compensation calculated as the number of inches by which the amount of precipitation exceeds 70 percent
20 of the ten-year average of precipitation multiplied by the unit price per inch. The unit price per inch of
21 precipitation is calculated by taking the bid amount for an average year and dividing by the relevant 10-year
22 average precipitation. In any case, the compensation paid to CONTRACTOR for each November through
23 April Snow Removal Period shall not exceed 150 percent of the compensation amounts for an average
24 year. Maximum annual compensation for each CONTRACTOR is displayed in Exhibit B-2, attached
25 hereto and incorporated herein by this reference. If the total amount of precipitation for the immediately
26 preceding snow season from November to April is less than or equal to 70 percent of the ten-year average
27 of precipitation, the CONTRACTOR will not receive any compensation in addition to the guaranteed
28 minimum.

1 B. Out-of-Season Snow Removal Period:

2 The CONTRACTOR will be compensated with the quoted per hour rate for equipment and
3 manpower authorized by the COUNTY Representative, as displayed below. The CONTRACTOR shall
4 show the hours engaged in out-of-season snow removal when a minimum of three inches has accumulated
5 on the subject roadway. No allowance will be made for travel time to and from the service area. The
6 CONTRACTOR may be requested to provide snow removal services for other areas that the
7 CONTRACTOR is not responsible for during the November through April snow removal period. The table
8 below provides the hourly rate that may be utilized for Out-of-Season Snow Removal.

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Out-of-Season Snow Removal Period Hourly Rates	
Contractor	Hourly Rate
RJW Enterprises, Inc.	\$337
Sierra Snow Services, Inc.	\$300
Messer Logging, Inc.	\$185

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14 C. MAXIMUM COMPENSATION

15 In no event shall compensation paid by the COUNTY for services performed under this Agreement
16 by all CONTRACTORS exceed the maximum annual amount of \$375,718.62 for the first three years of the
17 term. The total maximum cumulative amount payable to all CONTRACTORS considered collectively for the
18 services to be provided under this agreement, including the initial three-year term and the two potential one-
19 year renewal periods, shall not exceed \$1,958,508.42. It is understood that all expenses incidental to
20 CONTRACTOR'S performance of services under this Agreement shall be borne by that CONTRACTOR.

21 D. CPI ADJUSTMENT:

22 For each of the two additional one year extensions past the three year term, the price quote(s) will
23 be adjusted based on the Consumer Price Index (CPI) All Urban Consumers for San Francisco-Oakland-
24 Hayward, CA, Standard Metropolitan Statistical Area published by the United States Department of Labor,
25 Bureau of Labor Statistics or any successor index. The CPI information will be taken from the U.S.
26 Department of Labor's website: <https://data.bls.gov/timeseries/CUURS49BSA0>.

27 The price quote(s) for an average year for the November through April snow removal period and
28 rate(s) per hour for Out-of-Season snow removal shall be adjusted as follows.

1 1) In the third year of the service agreement, if both the COUNTY
2 Representative and CONTRACTOR agree to extend the agreement by one year, the CPI value for April
3 2021 will be subtracted from the CPI value for April 2024 and the difference divided into the April 2021
4 value to determine the percentage change in the CPI from April 2021 to April 2024. The percentage
5 change will be calculated to a tenth of one percent. If the COUNTY Representative and the
6 CONTRACTOR agree to extend the agreement in the third year, all compensation amounts will be adjusted
7 up by the percentage change from April 2021 to April 2024 not to exceed nine percent (9%).

8 2) In the fourth year of the service agreement, if both the COUNTY
9 Representative and the CONTRACTOR agree to extend the agreement by one more year, the CPI value
10 for April 2024 will be subtracted from the CPI value for April 2025 and the difference divided into the CPI
11 value for April 2024 to determine the percentage change during that period. If the COUNTY
12 Representative and the CONTRACTOR agree to extend the agreement in the fourth year, all compensation
13 amounts will be adjusted up by the percentage change not to exceed three percent (3%).

14 3) If the percentage change is zero or negative, the respective quotations and
15 hourly rates shall remain the same in either or both, of the third or the fourth year of the agreement.

16 4) Solely as an example of applying the calculations in subparagraph 1) or
17 2), assuming they were made for a three year change between April 2018 and April 2021, then the CPI
18 value for April 2021 (309.419) would be subtracted from the CPI value for April 2018 (283.422) and the
19 difference (25.997) divided into the April 2018 value (25.997 / 283.422) would result in the percentage
20 change in the CPI from April 2018 to April 2021 (.0917, or 9.17%), and the “not to exceed” limitations of
21 subparagraph 1) or 2), respectively, would apply.

22 5) CONTRACTOR shall prepare and send to the COUNTY Representative a
23 separate invoice for each County Service Area zone within the Service Area. If the precipitation amount
24 is above the ten-year average, the COUNTY shall prepare and send to the CONTRACTOR the
25 adjustment calculation. The CONTRACTOR shall then prepare and send in the invoice for any amount
26 above the 10-year average. The CONTRACTOR shall send invoices by email to
27 PWPBusinessOffice@fresnocountyca.gov or by United States First-Class Mail to:

28 Fresno County Department of Public Works and Planning

1 Resources Division, Special Districts Section
2 2220 Tulare Street, Sixth Floor
3 Fresno, CA 93721-2106

4 COUNTY shall pay each CONTRACTOR within forty-five (45) days after receipt and verification of
5 the accuracy and sufficiency of that CONTRACTOR's invoice(s) by the Department of Public Works and
6 Planning. In the event that a submitted invoice contains any errors or is otherwise determined to be
7 insufficient, the Department will request that corrections be made, and a revised invoice shall be
8 resubmitted by CONTRACTOR. Each CONTRACTOR understands that the 45-day time frame shall
9 commence only upon receipt and verification by the applicable department that a sufficient invoice has
10 been submitted.

11 6. INDEPENDENT CONTRACTOR: In performance of the work, duties and obligations
12 assumed by CONTRACTOR under this Agreement, it is mutually understood and agreed that
13 CONTRACTOR, including any and all of the CONTRACTOR'S officers, agents, and employees will at all
14 times be acting and performing as an independent contractor, and shall act in an independent capacity and
15 not as an officer, agent, servant, employee, joint venturer, partner, or associate of the COUNTY.
16 Furthermore, COUNTY shall have no right to control or supervise or direct the manner or method by which
17 CONTRACTOR shall perform its work and function. However, COUNTY shall retain the right to administer
18 this Agreement so as to verify that CONTRACTOR is performing its obligations in accordance with the
19 terms and conditions thereof.

20 CONTRACTOR and COUNTY shall comply with all applicable provisions of law and the rules and
21 regulations, if any, of governmental authorities having jurisdiction over matters the subject thereof.

22 Because of its status as an independent contractor, CONTRACTOR shall have absolutely no right
23 to employment rights and benefits available to COUNTY employees. CONTRACTOR shall be solely liable
24 and responsible for providing to, or on behalf of, its employees all legally-required employee benefits. In
25 addition, CONTRACTOR shall be solely responsible and save COUNTY harmless from all matters relating
26 to payment of CONTRACTOR'S employees, including compliance with Social Security withholding and all
27 other regulations governing such matters. It is acknowledged that during the term of this Agreement,
28 CONTRACTOR may be providing services to others unrelated to the COUNTY or to this Agreement.

7. MODIFICATION: Any matters of this Agreement may be modified from time to time by the

1 written consent of all the parties without, in any way, affecting the remainder.

2 8. NON-ASSIGNMENT: Neither party shall assign, transfer or sub-contract this Agreement
3 nor their rights or duties under this Agreement without the prior written consent of the other party.

4 9. HOLD HARMLESS: CONTRACTOR agrees to indemnify, save, hold harmless, and at
5 COUNTY'S request, defend the COUNTY, its officers, agents, and employees from any and all costs and
6 expenses (including attorney's fees and costs), damages, liabilities, claims, and losses occurring or
7 resulting to COUNTY in connection with the performance, or failure to perform, by CONTRACTOR, its
8 officers, agents, subcontractors or employees under this Agreement, and from any and all costs and
9 expenses (including attorney's fees and costs), damages, liabilities, claims, and losses occurring or
10 resulting to any person, firm, or corporation who may be injured or damaged by the performance, or
11 failure to perform, of CONTRACTOR, its officers, agents, subcontractors or employees under this
12 Agreement.

13 The provisions of this Section 9 shall survive termination of this Agreement.

14 10. INSURANCE

15 Without limiting the COUNTY's right to obtain indemnification from CONTRACTOR or any third
16 parties, CONTRACTOR, at its sole expense, shall maintain in full force and effect, the following insurance
17 policies or a program of self-insurance, including but not limited to, an insurance pooling arrangement or
18 Joint Powers Agreement (JPA) throughout the term of the Agreement:

19 A. Commercial General Liability

20 Commercial General Liability Insurance with limits of not less than Two Million Dollars
21 (\$2,000,000.00) per occurrence and an annual aggregate of Four Million Dollars (\$4,000,000.00). This
22 policy shall be issued on a per occurrence basis. COUNTY may require specific coverages including
23 completed operations, products liability, contractual liability, Explosion-Collapse-Underground, fire legal
24 liability or any other liability insurance deemed necessary because of the nature of this contract.

25 B. Automobile Liability

26 Comprehensive Automobile Liability Insurance with limits of not less than One Million Dollars
27 (\$1,000,000.00) per accident for bodily injury and for property damages. Coverage should include any auto
28 used in connection with this Agreement.

1 C. Professional Liability

2 If CONTRACTOR employs licensed professional staff, (e.g., Ph.D., R.N., L.C.S.W., M.F.C.C.) in
3 providing services, Professional Liability Insurance with limits of not less than One Million Dollars
4 (\$1,000,000.00) per occurrence, Three Million Dollars (\$3,000,000.00) annual aggregate.

5 D. Worker's Compensation

6 A policy of Worker's Compensation insurance as may be required by the California Labor
7 Code.

8 Additional Requirements Relating to Insurance

9 CONTRACTOR shall obtain endorsements to the Commercial General Liability insurance naming
10 the County of Fresno, its officers, agents, and employees, individually and collectively, as additional
11 insured, but only insofar as the operations under this Agreement are concerned. Such coverage for
12 additional insured shall apply as primary insurance and any other insurance, or self-insurance, maintained
13 by COUNTY, its officers, agents and employees shall be excess only and not contributing with insurance
14 provided under CONTRACTOR's policies herein. This insurance shall not be cancelled or changed without
15 a minimum of thirty (30) days advance written notice given to COUNTY.

16 CONTRACTOR hereby waives its right to recover from COUNTY, its officers, agents, and
17 employees any amounts paid by the policy of worker's compensation insurance required by this
18 Agreement. CONTRACTOR is solely responsible to obtain any endorsement to such policy that may be
19 necessary to accomplish such waiver of subrogation, but CONTRACTOR's waiver of subrogation under
20 this paragraph is effective whether or not CONTRACTOR obtains such an endorsement.

21 Within Thirty (30) days from the date CONTRACTOR signs and executes this Agreement,
22 CONTRACTOR shall provide certificates of insurance and endorsement as stated above for all of the
23 foregoing policies, as required herein, to the County of Fresno, Department of Public Works and Planning,
24 Resources Division, 2220 Tulare Street, 6th Floor, Fresno, California 93721, Attn: Special Districts Section,
25 stating that such insurance coverage have been obtained and are in full force; that the County of Fresno, its
26 officers, agents and employees will not be responsible for any premiums on the policies; that for such
27 worker's compensation insurance the CONTRACTOR has waived its right to recover from the COUNTY, its
28 officers, agents, and employees any amounts paid under the insurance policy and that waiver does not

1 invalidate the insurance policy; that such Commercial General Liability insurance names the County of
2 Fresno, its officers, agents and employees, individually and collectively, as additional insured, but only
3 insofar as the operations under this Agreement are concerned; that such coverage for additional insured
4 shall apply as primary insurance and any other insurance, or self-insurance, maintained by COUNTY, its
5 officers, agents and employees, shall be excess only and not contributing with insurance provided under
6 CONTRACTOR's policies herein; and that this insurance shall not be cancelled or changed without a
7 minimum of thirty (30) days advance, written notice given to COUNTY.

8 In the event CONTRACTOR fails to keep in effect at all times insurance coverage as herein
9 provided, the COUNTY may, in addition to other remedies it may have, suspend or terminate this
10 Agreement upon the occurrence of such event.

11 All policies shall be issued by admitted insurers licensed to do business in the State of California,
12 and such insurance shall be purchased from companies possessing a current A.M. Best, Inc. rating of A
13 FSC VII or better.

14 11. AUDITS AND INSPECTIONS: The CONTRACTOR shall at any time during business
15 hours, and as often as the COUNTY may deem necessary, make available to the COUNTY for examination
16 all of its records and data with respect to the matters covered by this Agreement. The CONTRACTOR
17 shall, upon request by the COUNTY, permit the COUNTY to audit and inspect all of such records and data
18 necessary to ensure CONTRACTOR'S compliance with the terms of this Agreement.

19 If this Agreement exceeds ten thousand dollars (\$10,000.00), CONTRACTOR shall be subject to
20 the examination and audit of the California State Auditor for a period of three (3) years after final payment
21 under contract (Government Code Section 8546.7).

22 12. NOTICES: The persons and their addresses having authority to give and receive notices
23 under this Agreement include the following:

<u>COUNTY</u>	<u>CONTRACTOR</u>
COUNTY OF FRESNO	SEE EXHIBIT A
Special Districts Administrator	
Department of Public Works and Planning	
2220 Tulare Street, 6 th Floor	
Fresno, CA 93721	

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28 All notices between the COUNTY and CONTRACTOR provided for or permitted under this

1 Agreement must be in writing and delivered either by personal service, by first-class United States mail, by
2 an overnight commercial courier service, or by telephonic facsimile transmission. A notice delivered by
3 personal service is effective upon service to the recipient. A notice delivered by first-class United States
4 mail is effective three COUNTY business days after deposit in the United States mail, postage prepaid,
5 addressed to the recipient. A notice delivered by an overnight commercial courier service is effective one
6 COUNTY business day after deposit with the overnight commercial courier service, delivery fees prepaid,
7 with delivery instructions given for next day delivery, addressed to the recipient. A notice delivered by
8 telephonic facsimile is effective when transmission to the recipient is completed (but, if such transmission is
9 completed outside of COUNTY business hours, then such delivery shall be deemed to be effective at the
10 next beginning of a COUNTY business day), provided that the sender maintains a machine record of the
11 completed transmission. For all claims arising out of or related to this Agreement, nothing in this section
12 establishes, waives, or modifies any claims presentation requirements or procedures provided by law,
13 including but not limited to the Government Claims Act (Division 3.6 of Title 1 of the Government Code,
14 beginning with section 810).

15 13. GOVERNING LAW: Venue for any action arising out of or related to this Agreement shall
16 only be in Fresno County, California.

17 The rights and obligations of the parties and all interpretation and performance of this Agreement
18 shall be governed in all respects by the laws of the State of California.

19 14. DISCLOSURE OF SELF-DEALING TRANSACTIONS

20 This provision is only applicable if the CONTRACTOR is operating as a corporation (a for-profit
21 or non-profit corporation) or if during the term of the agreement, the CONTRACTOR changes its status
22 to operate as a corporation.

23 Members of the CONTRACTOR's Board of Directors shall disclose any self-dealing transactions
24 that they are a party to while CONTRACTOR is providing goods or performing services under this
25 agreement. A self-dealing transaction shall mean a transaction to which the CONTRACTOR is a party
26 and in which one or more of its directors has a material financial interest. Members of the Board of
27 Directors shall disclose any self-dealing transactions that they are a party to by completing and signing a
28 Self-Dealing Transaction Disclosure Form, attached hereto as Exhibit C and incorporated herein by

1 reference, and submitting it to the COUNTY prior to commencing with the self-dealing transaction or
2 immediately thereafter.

3 15. ELECTRONIC SIGNATURE: The parties agree that this Agreement may be executed by
4 electronic signature as provided in this section. An “electronic signature” means any symbol or process
5 intended by an individual signing this Agreement to represent their signature, including but not limited to (1)
6 a digital signature; (2) a faxed version of an original handwritten signature; or (3) an electronically scanned
7 and transmitted (for example by PDF document) of a handwritten signature. Each electronic signature
8 affixed or attached to this Agreement (1) is deemed equivalent to a valid original handwritten signature of
9 the person signing this Agreement for all purposes, including but not limited to evidentiary proof in any
10 administrative or judicial proceeding, and (2) has the same force and effect as the valid original handwritten
11 signature of that person. The provisions of this section satisfy the requirements of Civil Code section
12 1633.5, subdivision (b), in the Uniform Electronic Transaction Act (Civil Code, Division 3, Part 2, Title 2.5,
13 beginning with section 1633.1). Each party using a digital signature represents that it has undertaken and
14 satisfied the requirements of Government Code section 16.5, subdivision (a), paragraphs (1) through (5),
15 and agrees that each other party may rely upon that representation. This Agreement is not conditioned
16 upon the parties conducting the transactions under it by electronic means and either party may sign this
17 Agreement with an original handwritten signature.

18 16. ENTIRE AGREEMENT: This Agreement constitutes the entire agreement between the
19 CONTRACTOR and COUNTY with respect to the subject matter hereof and supersedes all previous
20 Agreement negotiations, proposals, commitments, writings, advertisements, publications, and
21 understanding of any nature whatsoever unless expressly included in this Agreement. In the event of any
22 inconsistency in interpreting the documents which constitute this Agreement, the inconsistency shall be
23 resolved by giving precedence in the following order of priority: (1) the text of this Agreement (excluding all
24 Exhibits other than Exhibit A; and (2) Exhibit B, contractor pricing.

25 17. CONTRACTOR'S LEGAL AUTHORITY: Each individual executing this Agreement on
26 behalf of each CONTRACTOR hereby covenants, warrants, and represents: (i) that he or she is duly
27 authorized to execute and deliver this Agreement on behalf of the CONTRACTOR; and (ii) that this
28 agreement is binding upon the CONTRACTOR.

1 IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year
2 first hereinabove written.

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**CONTRACTORS
SEE ADDITIONAL SIGNATURE
PAGES ATTACHED**

COUNTY OF FRESNO

Steve Brandau, Chairman of the Board of Supervisors of the County of Fresno

ATTEST:
Bernice E. Seidel
Clerk of the Board of Supervisors
County of Fresno, State of California

By:
Deputy

FOR ACCOUNTING USE ONLY:

CSA 35 Zone V	CSA 35 Zone O	CSA 35 Zone AG
Fund: 0220	Fund: 0220	Fund: 0220
Subclass: 12390	Subclass: 12330	Subclass: 12470
Org. No: 9196	Org. No: 9180	Org. No: 9206
Account: 7220	Account: 7220	Account: 7220
CSA 35 Zone AS	CSA 31B	CSA 35 Zone AT
Fund: 0220	Fund: 0810	Fund: 0220
Subclass: 12778	Subclass: 16120	Subclass: 12575
Org. No: 9275	Org. No: 9166	Org. No: 9231
Account: 7220	Account: 7220	Account: 7220
CSA 35 Zone CI	WWD 41S	CSA 35 Zone CD
Fund: 0220	Fund: 0920	Fund: 0220
Subclass: 12765	Subclass: 16000	Subclass: 12758
Org. No: 9265	Org. No: 9351	Org. No: 9259
Account: 7220	Account: 7220	Account: 7220

1 **CONTRACTOR:**
2 **RJW ENTERPRISES, INC.**

3
4
5
6 By R. Walker

7 Print Name: ROBERT WALKER

8 Title: OWNER

9
10 **Mailing Address:**

11 PO Box 162

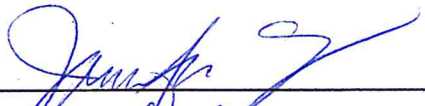
12 Shaver Lake, CA 93664

13 Phone: (559) 977-3566

14 Email: r.walker148@yahoo.com

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CONTRACTOR:
SIERRA SNOW SERVICES, INC.

By 
Print Name: Jennifer Gray
Title: CO. owner / Sec / Treas

Mailing Address:
41579 Dinkey Creek Rd
Shaver Lake, CA 93664
Phone: (559) 289-8404
Email: sierrasnowinc@hotmail.com

CONTRACTOR:
MESSER LOGGING, INC.

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By 
Print Name: Hayden Ferguson
Title: President

Mailing Address:
32111 Rockhill Lane
Auberry, CA 93602
Phone: (559) 855-3100
Email: hayley@tmc-mli.com

LIST OF CONTRACTORS

CONTRACTOR NAME	ADDRESS	CONTRACTOR CONTACT
1. RJW Enterprises, Inc.	PO Box 162 Shaver Lake, CA 93664	Contact: Robert Walker Phone: (559) 977-3566 E-mail: r.walker148@yahoo.com
2. Sierra Snow Services, Inc.	41579 Dinkey Creek Rd Shaver Lake, CA 93664	Contact: Jennifer Gray Phone: (559) 289-8404 Email: sierrasnowinc@hotmail.com
3. Messer Logging, Inc.	32111 Rockhill Lane Auberry, CA 93602	Contact: Hayley Ferguson Phone: (559) 855-3100 Email: hayley@tmc-mli.com

Contractor Pricing Per Zone

Sierra Snow Services, Inc.			
CSA 35 Zone	Quotation for an Average Year (Provided by Contractor in Bid Response)	Guaranteed Minimum Payment (Quotation for an Average Year*70%)	Monthly Installments (Guaranteed Minimum Payment/6 Installments)
CSA 35O	\$33,681.00	\$23,576.70	\$3,929.45

*Pricing per Zone for the first 3 years of the Contract

RJW Enterprises, Inc.			
CSA 35 Zone	Quotation for an Average Year (Provided by Contractor in Bid Response)	Guaranteed Minimum Payment (Quotation for an Average Year*70%)	Monthly Installments (Guaranteed Minimum Payment/6 Installments)
CSA 35V	\$16,949.00	\$11,864.30	\$1,977.38
CSA 35AK	\$4,500.00	\$3,150.00	\$525.00
CSA 35AS **	\$56,200.00	\$39,340.00	\$6,556.67
CSA 35AT	\$11,100.00	\$7,770.00	\$1,295.00
CSA 35CD	\$9,800.00	\$6,860.00	\$1,143.33
CSA 35CI	\$22,800.00	\$15,960.00	\$2,660.00
Bretz Road	\$8,000.00	\$5,600.00	\$933.33

*Pricing per Zone for the first 3 years of the Contract

**Including Solitude Lane to Shaver Lake WWTP

Messer Logging, Inc.			
CSA 35 Zone	Quotation for an Average Year (Provided by Contractor in Bid Response)	Guaranteed Minimum Payment (Quotation for an Average Year*70%)	Monthly Installments (Guaranteed Minimum Payment/6 Installments)
CSA 35AG	\$57,980.95	\$40,586.67	\$6,764.45

*Pricing per Zone for the first 3 years of the Contract

Contractor Maximum Annual Compensation

Sierra Snow Services, Inc.				
Agreement Year	Maximum Inflation Factor	Maximum In Season Compensation (Average Year Bid Amount*150%)	Maximum Out of Season Compensation (Average Year Bid Amount*20%)	Maximum Annual Compensation
Year 1	0%	\$50,521.50	\$6,736.20	\$57,257.70
Year 2	0%	\$50,521.50	\$6,736.20	\$57,257.70
Year 3	0%	\$50,521.50	\$6,736.20	\$57,257.70
Year 4	9%	\$55,068.44	\$7,342.46	\$62,410.89
Year 5	3%	\$56,720.49	\$7,562.73	\$64,283.22
Sierra Snow Services, Inc. was awarded the bid for CSA 35O. Totaling \$33,681.00 for an average year bid.			5 Year Total Maximum Compensation	\$298,467.21

RJW Enterprises, Inc.				
Agreement Year	Maximum Inflation Factor	Maximum In Season Compensation (Average Year Bid Amount*150%)	Maximum Out of Season Compensation (Average Year Bid Amount*20%)	Maximum Annual Compensation
Year 1	0%	\$194,023.50	\$25,869.80	\$219,893.30
Year 2	0%	\$194,023.50	\$25,869.80	\$219,893.30
Year 3	0%	\$194,023.50	\$25,869.80	\$219,893.30
Year 4	9%	\$211,485.62	\$28,198.08	\$239,683.70
Year 5	3%	\$217,830.18	\$29,044.02	\$246,874.21
RJW Enterprises, Inc. was awarded the bid for CSA 35 V, AK, AS (including Solitude Lane to Shaver Lake WWTP), AT, CD, CI, and Bretz Mill Road. Totaling \$129,349.00 for an average year bid.			5 Year Total Maximum Compensation	\$1,146,237.80

Messer Logging, Inc.				
Agreement Year	Maximum Inflation Factor	Maximum In Season Compensation (Average Year Bid Amount*150%)	Maximum Out of Season Compensation (Average Year Bid Amount*20%)	Maximum Annual Compensation
Year 1	0%	\$86,971.43	\$11,596.19	\$98,567.62
Year 2	0%	\$86,971.43	\$11,596.19	\$98,567.62
Year 3	0%	\$86,971.43	\$11,596.19	\$98,567.62
Year 4	9%	\$94,798.85	\$12,639.85	\$107,438.70
Year 5	3%	\$97,642.82	\$13,019.04	\$110,661.86
Sierra Snow Services, Inc. was awarded the bid for CSA 35AG. Totaling \$57,980.95 for an average year bid.			5 Year Total Maximum Compensation	\$513,803.41

SELF-DEALING TRANSACTION DISCLOSURE FORM

In order to conduct business with the County of Fresno (hereinafter referred to as "County"), members of a corporation's board of directors of the Consultant, must disclose any self-dealing transactions that they are a party to while providing goods, performing services, or both for the County. A self-dealing transaction is defined below:

"A self-dealing transaction means a transaction to which the corporation is a party and in which one or more of its directors has a material financial interest"

The definition above will be utilized for purposes of completing this disclosure form.

INSTRUCTIONS

- (1) Enter board member's name, job title (if applicable), and date this disclosure is being made.
- (2) Enter the board member's company/agency name and address.
- (3) Describe in detail the nature of the self-dealing transaction that is being disclosed to the County. At a minimum, include a description of the following:
 - a. The name of the agency/company with which the corporation has the transaction; and
 - b. The nature of the material financial interest in the Corporation's transaction that the board member has.
- (4) Describe in detail why the self-dealing transaction is appropriate based on applicable provisions of the Corporations Code.
- (5) Form must be signed by the board member that is involved in the self-dealing transaction described in Sections (3) and (4).

(1) Company Board Member Information:			
Name:		Date:	
Job Title:			
(2) Company/Agency Name and Address:			
(3) Disclosure (Please describe the nature of the self-dealing transaction you are a party to):			
(4) Explain why this self-dealing transaction is consistent with the requirements of Corporations Code 5233 (a):			
(5) Authorized Signature			
Signature:		Date:	